

Return Date: July 14, 2009  
at 9:30 a.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

STEVEN SELIGMAN  
and SANDY SELIGMAN,

Debtors.

-----X

Chapter 13

Case No.: 08-75786-ast

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the annexed application of the debtors, by their counsel JEFF MORGENSTERN, PLLC, a motion will be made before the Honorable Alan Trust at the U. S. Bankruptcy Court, 290 Federal Plaza, Central Islip, New York on July 14, 2009 at 9:30 a.m. for an Order pursuant to 11 U.S.C. 105(a) and 11 U.S.C. 302(b), authorizing the above-captioned case to be severed, establishing a separate Chapter 7 case for Sandy Seligman upon her filing a Notice of Conversion, and such other and further relief as the Court deems just and proper.

Dated: Carle Place, New York  
June 18, 2009

JEFF MORGENSTERN, PLLC  
Attorney for Debtors  
One Old Country Road, Suite 320  
Carle Place, New York 11514  
(516) 739-5908

  
\_\_\_\_\_  
JEFF MORGENSTERN (JM-4163)

TO: MARIANNE DeROSA  
Chapter 13 Trustee  
100 Jericho Quadrangle  
Jericho, NY 11753

U. S. TRUSTEE  
560 Federal Plaza  
Central Islip, NY 11722

CHASE BANK USA, N.A.  
c/o Creditors Bankruptcy Service  
P. O. Box 740933  
Dallas, TX 75374-09033

BMW  
c/o Vital Recovery Services, Inc.  
P. O. Box 923747  
Norcross, GA 30010-3747

Countrywide Home Loans  
c/o Frankel, Lambert, Weiss et al  
20 West Main Street  
Bay Shore, NY 11706-8304

DELL PREFERRED ACCOUNT  
Payment Processing Center  
P. O. Box 6403  
Carol Stream, IL 60197-6403

DISCOVER  
P. O. Box 15251  
Wilmington, DE 19886-5251

FDS BANK/MACY\*S  
TSYS Debt Management, Inc.  
P. O. Box 137  
Columbus, GA 31902-0137

FORD MOTOR CREDIT  
Focus Receivables Management LLC  
P. O. Box 725069  
Atlanta, GA 31139-2069

OHS RN & AUDIOLOGY  
SERVICES, PLLC  
c/o Cuthbert Road Management, LLC  
P. O. Box 1353  
Voorhees, NJ 08043

KOHL'S PAYMENT CENTER  
P. O. Box 2983  
Milwaukee, WI 53201-2983

AMERICAN EXPRESS  
CENTURION BANK  
c/o Becket and Lee LLP  
P. O. Box 3001  
Malvern, PA 19355-0701

CAPITAL ONE BANK (USA), N  
P. O. Box 70884  
Charolette, NC 28272-0884

DELL FINANCIAL SERVICES, LLC  
c/o Resurgent Capital Services  
P. O. Box 10390  
Greenville, SC 29603-0309

DEPARTMENT STORES  
NATIONAL BANK/MACY\*S  
TSYS Dept. Management, Inc.  
P. O. Box 137  
Columbus, GA 31902-0137

eCAST SETTLEMENT CORPORATION  
ASSIGNEE OF CAPITAL ONE BANK  
P. O. Box 35480  
Newark, NJ 07193-5480

FIRST USA  
c/o Academy Collection Service, Inc.  
P. O. Box 21089 15851310  
Philadelphia, PA 19114-0589

GE MONEY BANK  
P. O. Box 960061  
Orlando, FL 32896-0061

M & T BANK  
c/o Schiller & Knapp  
Suite 310  
950 New Loudon Road  
Latham, NY 12110

WASHINGTON MUTUAL  
Line Of Credit Payments  
P. O. Box 6868  
Lake Worth, FL 33466-6868

Return Date: July 14, 2009  
at 9:30 a.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re:

STEVEN SELIGMAN  
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Chapter 13

Case No.: 08-75786-ast

APPLICATION

The application of the debtors STEVEN SELIGMAN and SANDY SELIGMAN, by their counsel JEFF MORGENSTERN, PLLC represents as follows:

1. The debtors filed a joint Chapter 13 Petition on October 17, 2008.
2. The debtors' Chapter 13 Plan was confirmed on January 15, 2009. The Plan called for 60 monthly payments of \$1,980.00.
3. The Chapter 13 Trustee has filed a Motion to dismiss due to a default under the Chapter 13 Plan. That motion, originally returnable on May 21, 2009, is being adjourned to July 9, 2009.
4. The debtor Sandy Seligman desires to convert her case to Chapter 7; her husband Steven Seligman is not prepared to convert his case at this time. In order for Sandy Seligman to convert her case now, the joint case would first have to be severed; the trustee's Motion to Dismiss would then proceed only against Steven Seligman.
5. Some Courts being presented with this request for relief have authorized it. See In re: Shjeflo, 383 B.R. 192 (Bkrtcy Okla. 2008), citing 11 U.S.C. 105, and 11 U.S.C. 302(b), the latter section provides: "after the commencement of a joint case, the Court shall determine the extent, if any, to which the debtors' estates shall be consolidated". Also see

In re: Krick, 373 BR 593 (Bkrtcy N.D. Ind. 2007), and In re: Nelson, 308 BR 343 (Bkrtcy Wisc. 2004).

6. Deconsolidation of the debtors' estate would not work a hardship upon either debtor, or any party in interest.

7. A proposed Order is annexed hereto.

WHEREFORE, applicant respectfully requests an Order granting the relief sought in the annexed Notice of Motion, and such other and further relief as the Court deems just and proper.

Dated: Carle Place, New York  
June 18, 2009

JEFF MORGENSTERN, PLLC  
Attorney for Debtors  
One Old Country Road, Suite 320  
Carle Place, New York 11514  
(516) 739-5908

  
\_\_\_\_\_  
JEFF MORGENSTERN (JM-4163)

Seligman,S&SApplication - 5-20-09

Hearing Date: July 14, 2009  
at 9:30 a.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

STEVEN SELIGMAN  
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Debtors.

-----X

Chapter 13

Case No.: 08-75786-ast

ORDER SEVERING CASE

The debtors having filed a Motion to Sever the above-captioned case so as to allow Sandy Seligman to convert her case to Chapter 7, and the Motion having been heard before the Court on July 14, 2009, and there being no opposition thereto, and sufficient cause appearing therefrom, it is

ORDERED that the debtors Motion is granted, and it is

ORDERED that the above-captioned case is hereby severed, and it is

ORDERED that upon entry of this Order that the Clerk of the Court shall create a new case for Sandy Seligman, and assign said case a new case number, and it is

ORDERED that the date of the Order of relief in the severed case for Sandy Seligman shall be October 17, 2008 (the date of the order for relief in the original joint case), and it is

ORDERED that upon Sandy Seligman filing a Consent to Conversion and paying the appropriate filing fee, the severed case shall be designated as a Chapter 7 case.

Dated: Central Islip, New York  
July \_\_\_\_\_, 2009

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Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re:

STEVEN SELIGMAN  
and SANDY SELIGMAN,

Debtors.

-----X

**AFFIDAVIT OF**  
**SERVICE BY MAIL**

Chapter 13

Index No.: 08-75786-ast

LYNDA CASH, being duly sworn deposes and says: I am not a party to the action, am over 18 years of age and reside in Malverne, New York.

On June 19, 2009, I served a true copy of the annexed NOTICE OF MOTION in the above-mentioned proceeding, by mailing same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee as indicated below:

TO: MARIANNE DEROSA  
Chapter 13 Trustee  
100 Jericho Quadrangle  
Jericho, NY 11753

CHASE BANK USA, N.A.  
c/o Creditors Bankruptcy Service  
P. O. Box 740933  
Dallas, TX 75374-09033

BMW  
c/o Vital Recovery Services, Inc.  
P. O. Box 923747  
Norcross, GA 30010-3747

Countrywide Home Loans  
c/o Frankel, Lambert, Weiss et al  
20 West Main Street  
Bay Shore, NY 11706-8304

DELL PREFERRED ACCOUNT  
Payment Processing Center  
P. O. Box 6403  
Carol Stream, IL 60197-6403

U. S. TRUSTEE  
560 Federal Plaza  
Central Islip, NY 11722

AMERICAN EXPRESS  
CENTURION BANK  
c/o Becket and Lee LLP  
P. O. Box 3001  
Malvern, PA 19355-0701

CAPITAL ONE BANK (USA), N  
P. O. Box 70884  
Charlotte, NC 28272-0884

DELL FINANCIAL SERVICES, LLC  
c/o Resurgent Capital Services  
P. O. Box 10390  
Greenville, SC 29603-0309

DEPARTMENT STORES  
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Columbus, GA 31902-0137

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P. O. Box 15251  
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P. O. Box 1353  
Voorhees, NJ 08043

KOHL'S PAYMENT CENTER  
P. O. Box 2983  
Milwaukee, WI 53201-2983

eCAST SETTLEMENT CORPORATION  
ASSIGNEE OF CAPITAL ONE BANK  
P. O. Box 35480  
Newark, NJ 07193-5480

FIRST USA  
c/o Academy Collection Service, Inc.  
P. O. Box 21089 15851310  
Philadelphia, PA 19114-0589

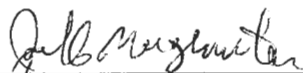
GE MONEY BANK  
P. O. Box 960061  
Orlando, FL 32896-0061

M & T BANK  
c/o Schiller & Knapp  
Suite 310  
950 New Loudon Road  
Latham, NY 12110

WASHINGTON MUTUAL  
Line Of Credit Payments  
P. O. Box 6868  
Lake Worth, FL 33466-6868

  
Lynda Cash

Sworn to before me this  
19<sup>th</sup> day of June 2009.

  
Notary Public

JEFF MORGENSTERN  
Notary Public, State of New York  
No. 4832709  
Qualified in Nassau County  
Term Expires May 31, 2011

Seligman, S&S AOS-NoticeOfMo - 6-18-09

Case No.: 08-75786 - Chapter 13

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

STEVEN SELIGMAN  
and SANDY SELIGMAN,

Debtors.

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**NOTICE OF MOTION**

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**JEFF MORGENSTERN, PLLC**  
**Attorney for Debtors**  
**ONE OLD COUNTRY ROAD, SUITE 320**  
**CARLE PLACE, NEW YORK 11514**  
**(516) 739-5908 - Phone**  
**(516) 719-7280 - Fax**

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The undersigned attorney, admitted to practice in the Courts of New York State, certifies, that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: June 18, 2009

Signature /s/ Jeff Morgenstern

Signer's Name : JEFF MORGENSTERN

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Service of the within  
Dated:

is hereby admitted.  
Attorneys for

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PLEASE TAKE NOTICE

**NOTICE OF ENTRY**

[ ] that the within is a true copy of an \_\_\_\_\_ entered in the office of the clerk of the  
within named Court on \_\_\_\_\_, 2009.

**NOTICE OF SETTLEMENT**

[ ] that an Order of which the within is a true copy will be presented for settlement to the  
on \_\_\_\_\_, 2009 at

Dated:

**JEFF MORGENSTERN, PLLC**  
**Attorney for Debtors**  
**One Old Country Road, Suite 320**  
**Carle Place, New York 11514**  
**(516) 739-5908 - Phone**  
**(516) 719-7280 - Fax**